

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HENRY ESPEJO, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

SANTANDER CONSUMER USA, INC., an
Illinois corporation,

Defendant.

Case No.: 1:11-cv-08987

Honorable Charles P. Kocoras

ARICA BONNER, et al, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

SANTANDER CONSUMER USA, INC., an
Illinois corporation,

Defendant.

Case No.: 1:12-cv-9431

Honorable Charles P. Kocoras

JOINT MOTION FOR LEAVE TO SERVE REBUTTAL EXPERT REPORT

Plaintiffs Henry Espejo and Faye Levins (“Plaintiffs”) and Defendant Santander Consumer USA, Inc. (“Santander”), by and through their undersigned counsel, hereby request that the Court grant Plaintiffs leave to serve a rebuttal expert report relating to certain limited issues raised by Defendant’s expert, Debra Aron, and for Defendant to depose Plaintiffs’ rebuttal expert. In support of the instant motion, the Parties state as follows:

1. On July 22, 2015, the Court entered a minute order setting September 4, 2015 as the deadline for Plaintiffs' expert disclosure and Rule 26(a)(2) report, and December 4, 2015 as the deadline for Defendant's expert disclosures and report. (*Espejo*, Dkt. 147; *Bonner*, Dkt. 74.)

2. Pursuant to that Order, on September 8th (with Defendant's agreement), Plaintiffs served on Defendant their Rule 26(a)(2) expert witness disclosure and report of Serge Jorgensen. Defendant took Mr. Jorgensen's deposition on November 18th.

3. Thereafter, on December 8th (with Plaintiffs' agreement), Defendant served on Plaintiffs its Rule 26(a)(2) expert witness disclosures and reports of Debra J. Aron and Sonya Kwon. Plaintiffs will take the depositions of Defendant's experts on January 11 and 12, 2016.

4. In her expert report, Dr. Aron offered opinions intended to rebut the assertions made in Mr. Jorgenson's expert report, in addition to affirmative expert testimony. The Parties have conferred and agreed that Plaintiffs should be allowed the opportunity to rebut Dr. Aron's affirmative (i.e., non-rebuttal) opinions.

5. Specifically, the Parties agree that Plaintiffs should be entitled to provide a rebuttal report addressing the feasibility of identifying the primary users of cellular telephone numbers at the time those numbers were called.

6. The Parties have further agreed, subject to the Court's approval, to (i) Plaintiffs' production of a rebuttal report no later than January 18, 2016 (the Court's current expert discovery deadline); (ii) production of responsive documents by Plaintiffs' rebuttal expert no later than February 1, 2016; and (iii) Defendant's deposition of Plaintiffs' rebuttal expert no later than February 18, 2016.

7. The Parties do not currently believe that any further expert discovery beyond that described above will be necessary.

WHEREFORE, the Parties jointly and respectfully request that the Court enter an order (i) granting Plaintiffs leave to serve a limited rebuttal report no later than January 18, 2016, which addresses the feasibility of identifying the primary users of cellular telephone numbers at the time those numbers were called; and (ii) setting deadlines of February 1, 2016 for production of responsive documents by Plaintiff's rebuttal expert, and February 18, 2016 for the deposition of Plaintiff's rebuttal expert.

Respectfully submitted,

HENRY ESPEJO and FAYE LEVINS,
individually and on behalf of all others similarly
situated,

Dated: January 7, 2016

By: s/ J. Dominick Larry
One of Plaintiff's Attorneys

Jay Edelson
jedelson@edelson.com
Rafey S. Balabanian
rbalabanian@edelson.com
Benjamin H. Richman
brichman@edelson.com
J. Dominick Larry
nlarry@edelson.com
EDELSON PC
350 North LaSalle Street, 13th Floor
Chicago, Illinois 60654
Tel: 312.589.6370
Fax: 312.589.6378

SANTANDER CONSUMER USA, INC.,

Dated: January 7, 2016

By: /s Henry Pietrkowski
One of Defendant's Attorneys

James A. Rolfes
jrolfes@reedsmith.com
Henry Pietrkowski
hpietrkowski@reedsmith.com
Reed Smith LLP
10 South Wacker Drive, 40th Floor

Chicago, Illinois 60606

Abraham J. Colman
acolman@reedsmith.com

Felicia Yu
fyu@reedsmith.com

Reed Smith LLP
355 South Grand Avenue, Suite 2900
Los Angeles, California 90071

David S. Reidy
dreidy@reedsmith.com
Marc A. Lackner
mlackner@reedsmith.com

Ashley L. Shively
ashively@reedsmith.com
101 Second Street, Suite 1800
San Francisco, California 94105

CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2016, I served the above and foregoing by causing a true and accurate copy of such paper to be filed and transmitted to all counsel of record via the Court's CM/ECF electronic filing system.

s/ J. Dominick Larry